

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8 999 18TH STREET- SUITE 300 DENVER, CO 80202-2466 Phone 800-227-8917

http://www.epa.gov/region08

P & M PETROLEUM MANAGEMENT)) FINAL ORDER)
Respondent) DOCKET NO.: SDWA-08-2005-0060
Pursuant to 40 C.F.R. §22.18, of El	PA's Consolidated Rules of Practice, the
Consent Agreement resolving this matter is hereby	approved and incorporated by reference into
this Final Order. The Respondent is hereby ORD	ERED to comply with all of the terms of the
Consent Agreement, effective immediately upon re	eceipt by Respondent of this Consent
Agreement and Final Order.	
09.18.06	SIGNED
DATE	Elyana R. Sutin
	Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8

Docket No.: SDWA-08-2005-0060

In the Matter of:)	
P & M Petroleum Management, LLC)	CONSENT AGREEMENT
Respondent.)	

Complainant, United States Environmental Protection Agency, Region 8 (EPA), and Respondent, P & M Petroleum Management, LLC (Respondent), by their undersigned representatives, hereby consent and agree as follows:

- 1. EPA issued to Respondent a First Amended Proposed Order and Penalty Complaint with Notice of Opportunity for Hearing (Complaint) filed on May 31, 2006, alleging certain violations of Part C of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300h et seq., relating to the underground injection controls (UIC) program. Three Class II enhanced recovery wells, located on the Uintah & Ouray Indian Reservation in Uintah County, Utah, are the subjects of this action.
- 2. The Complaint alleged that Respondent violated the SDWA by a) failing to comply with its UIC permits and 40 C.F.R. § 144.38 and the financial responsibility requirements therein (all three wells); b) failing to comply with its UIC permit and 40 C.F.R. § 146.23 by not submitting annual monitoring reports (all three wells); c) failing to comply with its UIC permit and 40 C.F.R. § 146.23(b)(3) for failing to demonstrate mechanical integrity at the East Red Wash #4-6 well; and d) failing to comply with its UIC permit and 40 C.F.R. § 144.52(a)(6) for

failing to plug and abandon the East Red Wash #4-6 well after ceasing injection activities for more than two years, and for which no demonstration of non-endangerment was made.

- 3. Respondent admits that EPA has the jurisdictional authority to issue the Complaint and settle this case pursuant to this Consent Agreement, but does not confirm or deny the remaining allegations, including the findings and alleged violations.
- 4. Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint, or this Consent Agreement.
- 5. This Consent Agreement, upon incorporation into a final consent order, applies to and is binding upon EPA and upon Respondent and Respondent's heirs, successors and assigns. Any change in ownership or corporate status of Respondent, including, but not limited to, any transfer of assets or real or personal property, shall not alter Respondent's responsibilities under this agreement. This Consent Agreement contains all terms of the settlement agreed to by the parties.
- 6. Respondent consents and agrees to pay a civil penalty in the amount of thirteen thousand dollars (\$13,000.00), in the manner described below in this paragraph. EPA finds this penalty amount is appropriate after applying the statutory factors in section 1423(c)(4)(B) of the SDWA with the facts and circumstances of this case.
 - a. Payment is due within 30 calendar days from the date of the Final Order, issued by the Regional Judicial Officer, that adopts this Consent Agreement. If the due date falls on a weekend or legal federal holiday, then the due date becomes the next business day. The date the payment is made is considered to be the date processed by Mellon Bank described below. Payments received by 11:00 AM. EST are processed on the same day, those received after 11:00 AM are processed on the next business day.

b. The payment shall be made by remitting a cashier's or certified check, including the name and docket number of this case, for the amount, payable to "Treasurer, United States of America," to:

Regular Mail:

Mellon Bank Lockbox 360859 Pittsburgh, PA 15251-6859

Federal Express, Airborne, or other commercial carrier:

U.S. EPA, 360859 Mellon Client Service Center Rm 154-0670 500 Ross Street Pittsburgh, PA 15251-6859

Wire Transfers:

Wire transfers must be sent directly to the Federal Reserve Bank in New York City with the following information:

ABA = 021030004 TREAS NYC/CTR/ BNF=/AC-68010727

A copy of the check shall be sent simultaneously to:

James H. Eppers Senior Enforcement Attorney (8ENF-L) U.S. EPA Region 8 999 18th Street, Suite 300 Denver, CO 80202-2466

and to

Tina Artemis Regional Hearing Clerk (8RC) U.S. EPA Region 8 999 18th Street, Suite 300 Denver, CO 80202-2466

c. In the event payment is not received by the specified due date, interest accrues from the date of the final order, not the due date, at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717,

- and will continue to accrue until payment in full is received. (i.e., on the 1st late day, 30 days of interest accrues).
- d. In addition, a handling charge of fifteen dollars (\$15) shall be assessed the 31st day from the date of the final consent order, and each subsequent thirty day period that the debt, or any portion thereof, remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount if payment is not received within 90 days of the due date (i.e., the 121st day from the date the final consent order is signed). Payments are first applied to outstanding handling charges, 6% penalty interest, and late interest. The remainder is then applied to the outstanding principal amount.
- e. Should Respondent so choose, but in compliance with subparagraphs a-d of this paragraph 6, it may pay the civil penalty pursuant to the following payment schedule:
 - i. due within 30 calendar days from the date of the Final Order, payment of five thousand dollars (\$5,000.00); and
 - ii. due within 60 calendar days from the date of the Final Order, payment of the remaining eight thousand dollars (\$8,000.00) plus interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717 which totals \$8,026.30; or
 - iii. due within 90 calendar days from the date of the Final Order, payment of \$8,039.45; or
 - iv. due within 120 calendar days from the date of the Final Order, payment of \$8,052.60; or
 - v. due within 150 calendar days from the date of the Final Order, payment of \$8,065.75; or
 - vi. due within 180 calendar days from the date of the Final Order, payment of \$8,078.99.
- 7. Respondent provided evidence to EPA on September 13, 2006 that the Red Wash #4-6 well has returned to compliance through the demonstration of mechanical integrity. EPA agrees that the well's mechanical integrity has been demonstrated.
 - 8. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply

with the SDWA and its implementing regulations.

- 9. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach of the consent agreement and may result in referral of the matter to the Department of Justice for enforcement of this agreement and for such other relief as may be appropriate.
- 10. Nothing in this Consent Agreement shall be construed as a waiver by the EPA or any other federal entity of its authority to seek costs or any appropriate penalty associated with any collection action instituted as a result of Respondent's failure to perform pursuant to the terms of this Consent Agreement.
- 11. The undersigned representative of Respondent certifies that he is fully authorized to enter into the terms and conditions of this Consent Agreement on behalf of the Respondent.
- 12. This Consent Agreement applies to and is binding upon EPA and upon Respondent and Respondent's successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets of real or personal property shall not alter Respondent's responsibilities under this agreement.
- 13. The parties agree to submit this Consent Agreement to the Regional Judicial Officer, with a request that it be incorporated into a final order.
 - 14. Each party shall bear its own costs and attorney fees in connection with this matter.

15. This Consent Agreement, upon incorporation into a final order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete and full civil settlement of the specific violations alleged in the Complaint.

P & M Petroleum Management, LLC

Date: <u>9/14/06</u> By: <u>SIGNED</u>

Jerry L. Calley Managing Member

U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 8

Date: 9/15/06 By: SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **CONSENT AGREEMENT/FINAL ORDER** in the matter of **P & M PETROLEUM MANAGEMENT, LLC., DOCKET NO.: SDWA-08-2005-0060** was filed with the Regional Hearing Clerk on September 18, 2006.

Further, the undersigned certifies that a true and correct copy of the document was delivered to James Eppers, Enforcement Attorney, U.S. EPA - Region 8, 999 18th Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States mail certified/return receipt on September 18, 2006 to:

Thomas F. Tauskey Attorney for Respondent 518 17th Street, Suite 210 Denver, CO 80202

And hand-carried to:

Honorable Elyana R. Sutin Regional Judicial Officer U. S. Environmental Protection Agency – Region 8 999 18th Street, Suite 300 (8RC) Denver, CO 80202-2466

Telefaxed to:

U. S. Environmental Protection Agency Cincinnati Finance Center 26 W. Martin Luther King Drive (MS-0002) Cincinnati, Ohio 45268 513-487-2063

September 18, 2006

SIGNED

Tina Artemis Regional Hearing Clerk

THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON September 18, 2006.